

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,
Plaintiff/Respondent,

V.

JAIME DE LA CRUZ,
Defendant/Movant.

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CR. No. C-03-74
C.A. No. C-05-179

ORDER GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS*

On January 24, 2006, the District Court denied Movant Jaime de la Cruz's ("de la Cruz" or "Appellant") motion pursuant to 28 U.S.C. § 2255. (D.E. 33, 34). He filed a timely notice of appeal, and has sought leave to proceed on appeal *in forma pauperis*. (D.E. 35, 36).

Appellant has not provided a financial affidavit or a trust account statement indicating his inability to pay the filing fee. Nonetheless, because Appellant was represented by appointed counsel during his original criminal prosecution, he is automatically entitled to *ifp* status on appeal, unless the District Court affirmatively certifies otherwise or "a statute provides otherwise." Fed. R. App. P. 24(a)(3). Neither of those two exception applies in this case, and the undersigned does not find any reason to deny *ifp* status.

Accordingly, Appellant's motion to proceed on appeal *in forma pauperis* (D.E. 36) is GRANTED.

It is ORDERED this 14th day of March, 2006.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE